

7 May 1986

ARTICLE APPEARED
ON PAGE 21

FILE ONLY

US may prosecute media over intelligence reports

By George Lardner Jr.
Washington Post

WASHINGTON - The Reagan administration is considering the criminal prosecution of five news organizations for publishing information about US intelligence-gathering operations, particularly intercepted communications reflecting US code-breaking capabilities.

William J. Casey, director of the Central Intelligence Agency, said he had discussed the possibility of such prosecutions - never before initiated against a newspaper or magazine - with Deputy Attorney General D. Lowell Jensen at a meeting last Friday at the Justice Department.

"We've already got five absolutely cold violations," Casey said, according to two Washington Post editors who met with him later that day. Casey was apparently referring to alleged violations of a 1950 statute that makes it illegal to "knowingly and willfully" disclose or publish classified information about codes, ciphers or "communication intelligence activities of the United States or any foreign government." The CIA director added, however, that no final decision had been made about whether indictments would be sought.

Casey named the five news organizations as The Washington Post (for stories about US intercepts of messages between Tripoli and the Libyan People's Bureau in East Berlin), Newsweek (also for reporting on intercepted Libyan communications), The Washington Times, The New York Times and Time magazine, the last three for unspecified stories.

In addition, Casey warned Post editors that such prosecution against the newspaper would be "an alternative that would have to be considered" if The Post were to publish another story it has

prepared concerning US intelligence capabilities, but which the newspaper has not yet decided whether to publish.

"I'm not threatening you," Casey told Benjamin C. Bradlee, the newspaper's executive editor and Leonard Downie Jr., the managing editor, during a meeting at the University Club last Friday. "But you've got to know that if you publish this, I would recommend that you be prosecuted under the intelligence statute."

Downie declined to discuss the unpublished article.

In the meeting, held at Casey's request, the CIA director did not specify what statute he had in mind, mentioning only "the intelligence statute" and "the criminal statute." But he appeared to be referring to Section 798 of Title 18 of the US Code, the so-called "COMINT statute" that Congress first passed in 1950 to protect its communications intelligence activities.

"I mentioned [Section] 798," Bradlee recalled. "He [Casey] said 'Yeah, yeah, I don't practice law anymore. You know what I'm talking about.'"

John M. Poindexter, the White House national security affairs adviser, and Gen. William Odom, director of the National Security Agency, also have said the administration was looking for ways to stop a recent spate of leaks to the news media. "We're dusting off 18 USC 798," Odom told one Post editor.

The law carries a maximum penalty of 10 years in prison and a \$10,000 fine.

Officials of the other publications Casey mentioned said they knew of no similar warnings from Casey or any other high-ranking administration official about any stories of theirs.

Officials at the Justice Department refused to comment. Jensen declined through a spokesman to grant an interview or to consider any questions on the subject. He would not confirm or deny that he met with Casey last Friday.

The threat of criminal prosecutions would appear to be part of increasingly vigorous administration efforts to crack down on unauthorized leaks of sensitive information.